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Via ECF

Hon. Miroslav Lovric
United States Magistrate Judge
Northern District of New York
Federal Building and U.S. Courthouse
15 Henry Street
Binghamton, New York 13901

Re: Honeywell International Inc. v. Buckeye Partners, L.P. et al.
Index No.: 5:18-cv-00646-FJS-ML

Dear Judge Lovric,

Our office represents the Buckeye Defendants/Third-Party Plaintiffs in this matter. What follows is a joint request by all parties in the case after extensive discussion with all counsel and the mediator, Michael Last ("Mr. Last").

Preamble:

Since our last joint status report filed on February 17, 2023, [Dkt. # 346], the parties have and are continuing to work diligently and cooperatively to respond to multiple sets of discovery requests, including recent requests from Honeywell, and to digest the large volumes of documents which have been, and are still being produced on a rolling basis. The parties have also exchanged and responded to multiple deficiency letters regarding production, ESI issues, etc. Thus far, more than 25,000 documents, and more than 1,000,000 pages of documents have been produced. The discovery produced so far (and still to be produced) consists in large part of decades of complex scientific reports and correspondence relating to the investigation and remediation of Onondaga Lake and its surroundings, as well as more recent investigative reports related to SYW-12, and other requested information and scientific analysis detailing the investigation of contaminants and remediation at numerous Honeywell and other industrial properties and petroleum bulk storage terminals near the Lake and potentially impacting SYW-12 that is necessary for analysis.

Further, NYSDEC has issued individual letters to many of the parties, including Honeywell, Buckeye, CITGO, Sunoco, and Exxon Mobil, among others, requesting that each party commit to remediating SYW-12 and enter an administrative consent order. The letter recipients are now in the process of responding to this request. This potentially adds another layer of complexity to the existing case and timetable.

In addition to the extensive electronic and paper discovery and related work, the parties have had several conferences with Mr. Last regarding the mediation process, including agreeing to the dates set forth below. The parties and Mr. Last expended significant time and thought on the plan below and have come to agreement that the staggered, two-tier approach set forth below will be the most efficient method for this case's mediation. All the parties are in agreement that the mediation will greatly benefit if the parties have sufficient time to conduct adequate fact finding in order to present their positions to the mediator and conduct meaningful mediation.

Under the Court's Uniform Pretrial Scheduling Order [Dkt. # 307] ("Scheduling Order"), the parties' affirmative expert reports are due in August 2023, just four months from now. This is the same time that Honeywell, Buckeye, CITGO, Sunoco, and Exxon will be preparing their respective mediation submissions. The parties believe a more efficient approach that will both promote a meaningful mediation and advance the litigation effectively would be achieved if they are not concurrently preparing expert reports. Given the large volume of complex documents produced to date; the historic age and paper format of a significant number of the relevant records; the further document productions that remain ongoing; and the complexity of the scientific analysis required to present the parties' claims and defenses, the parties agree that more time is necessary for the experts to review and analyze the documents, scientific data, and laboratory reports that have been produced and will be produced in the upcoming months to evaluate the conditions present at SYW-12, Onondaga Lake, and the Oil City area. This evaluation is critical to understanding the history of contamination, the parties' liability, and any allocation among parties in connection with the litigation as well as the mediation.

For all the foregoing reasons, we are requesting an extension to the current case management schedule as set forth below. The parties appreciate Your consideration of this request.

Current Deadlines:

Pursuant to this Court's Scheduling Order the following deadlines are currently in place:

August 14, 2023 – Affirmative Expert Reports must be served
 October 23, 2023 – Responsive Expert Reports must be served
 November 30, 2023 – Rebuttal Expert Reports must be served
 December 30, 2023 – Completed Mediation
 February 26, 2024 – Close of All Discovery (Fact and Expert)
 April 30, 2024 – Motions (if any)

For the Court's awareness, the Parties and mediator, Michael Last, have agreed upon the following schedule for mediation:

September 8, 2023 – Honeywell submits its mediation brief.

September 22, 2023 – Buckeye, CITGO, Sunoco, and Exxon Mobil submit their respective mediation briefs.

October 23, 2023 – Honeywell, Buckeye, CITGO, Sunoco, and Exxon Mobil begin mediation with Michael Last. The remaining First and Second Third-Party Defendants will immediately be alerted if the case does not settle.

November 10, 2023 – First and Second Third-Party Defendants (excluding Exxon Mobil) submit their respective mediation briefs, if necessary.

December 4, 2023 – Start final mediation conference with Michael Last, if necessary.

Jointly Requested New Deadlines:

Based upon the foregoing, the Parties respectfully request that the Court adjourn the current deadlines in the Scheduling Order, and enter the following amended deadlines:

February 8, 2024 – Honeywell serves its Affirmative Expert Reports.

April 8, 2024 – Buckeye, CITGO, and Sunoco serve their Responsive Expert Reports; Buckeye serves its Affirmative Expert Reports for First and Second Third Party complaints.

May 8, 2024 – First and Second Third Parties serve their Responsive Expert Reports.

June 6, 2024 – Honeywell serves its Rebuttal Expert Reports; Buckeye serves its Rebuttal Expert Reports for First and Second Third-Party complaints.

July 18, 2024 – Close of All Discovery (Fact and Expert).

August 29, 2024 – Motions (if any).

Thank you for your consideration.

Respectfully submitted,

HANCOCK ESTABROOK, LLP

s/James J. O'Shea

James J. O'Shea

JJO

cc: All counsel of record *via* ECF